

DRAFT 10-29-13.2

WYOMING GAME AND FISH COMMISSION

CHAPTER 51

REGULATION GOVERNING FISH HATCHERIES

Section 1. Authority. These regulations are promulgated by authority of W.S. §23-1-102(a)(xiv), §23-1-103, §23-1-302, §23-4-101, §23-4-102, §23-4-103, §23-4-104 and §23-6-207.

~~**Section 2. Effective Date.** These regulations are effective January 1, 2012, and shall remain in effect until modified or rescinded by the Commission.~~

~~**Section 32. Definitions.** For the purpose of this regulation, definitions~~**Definitions** shall be as set forth in Title 23, Wyoming Statutes, ~~Wyoming Game and Fish Commission R~~regulations, and the Commission also adopts the following definitions:

(a) "Aquaculture Facility" means any combination of buildings, ponds, tanks, raceways, or any other structure used for the propagating, rearing, or producing of aquatic wildlife, excluding hobby aquariums or natural bodies of water. Buildings, ponds, tanks, raceways, or other structures used for the containment of aquatic wildlife separated by more than one-quarter (¼) mile, or facilities that drain to, or are modified to drain to, different waters are considered to be separate facilities, regardless of ownership, and require a separate fish hatchery license and surety bond.

(b) "Brokered" means the activity when any fish, fish eggs or fish gametes are contracted for sale, transport or stocking but are not under possession of a fish hatchery of origin or the applicant of a private fish stocking authorization.

~~———— (c) "Catchout Pond" means an artificial pond of ten (10) surface acres of water or less, located completely within the boundaries of a licensed fish hatchery, where fish shall be caught by legal fishing methods.~~

~~(d)~~ "Fish Hatchery" means an aquaculture facility not owned or operated by federal, state, local or tribal government agencies used for propagating, rearing or producing any or all life stages of fish.

~~(e)~~ "Non-Salmonid Fish Hatchery" means aquaculture facilities used for propagating, rearing, or producing any or all life stages of fish not in the family Salmonidae.

~~(f)~~ "Salmonid Fish Hatchery" means any aquaculture facility used for propagating, rearing, or producing any or all life stages of the family Salmonidae.

Section 43. Application for license.

(a) Any person desiring to operate a fish hatchery shall submit proper fees and make application on forms provided by the Department.

(i) A map and legal description to the quarter (1/4) quarter (1/4) section, or lat-long coordinates in degrees, minutes and seconds, or in universal transverse mercator (UTM) coordinates of all fee title lands on which the hatchery will operate shall be included. If fee lands are leased, a copy of the lease agreement shall be included with the application form.

(ii) Application for a new fish hatchery shall include, but not be limited to, a diagrammatic sketch of all aquaculture facilities, water supplies and effluent drainages. The name of the stream or body of water into which effluent from the hatchery is discharged or would possibly be discharged into in the event of flooding shall be provided. Any ponds shall be identified with a unique name or number and size in surface acres indicated.

(iii) The applicant shall provide the name and source of the species of all fish, fish eggs, or fish gametes to be possessed, propagated, sold, traded, or transported to or from the fish hatchery for which the license application is being made. No fish, fish eggs, or fish gametes exclusive of those species licensed for propagation by the hatchery shall be imported into or held in, or otherwise access hatchery facilities or waters. It shall be a violation of this regulation for a fish hatchery licensee to possess, receive, ship, purchase, rear, sell or otherwise dispose of any species of fish, fish eggs, or fish gametes not listed on the license approved by the Department.

(b) A fish hatchery licensee shall not modify operations from those described on the original license without an approved amendment. A detailed request specifying proposed amendments to the original license shall be submitted to the Chief of Fisheries for consideration of approval.

(c) No wild fish may be contained or captured within a new or proposed aquaculture facility as a result of facility construction, impoundment of waters, or utilization of existing ponds.

(d) Under special circumstances, the Chief of Fisheries may grant an exception to the one-quarter (1/4) mile stipulation for aquaculture facility separation. Any exception shall be evaluated upon formal written request submitted to the Department by the applicant.

(e) Application for transfer of an existing fish hatchery to a new owner shall include a record of fish, fish eggs, and fish gametes upon transfer. A new owner shall receive the last three (3) years fish production records from the previous owner.

(f) A fish hatchery license expires on the last day of the calendar year for which the license was issued. A new fish hatchery license shall be obtained prior to the importation or removal of any fish, fish eggs, or fish gametes to or from the hatchery.

Section 54. Facility Inspection.

(a) Before a license is issued to operate a new fish hatchery or an existing fish hatchery transferred to a new owner, Department personnel shall review the applicant's proposed aquaculture facilities to insure protection of Wyoming's wildlife resources. Aquaculture facilities shall be constructed to meet Department approval prior to importation or possession of fish, fish eggs or fish gametes.

(b) Before an existing fish hatchery can be transferred to a new owner, the Department may inspect aquaculture facilities and request full disclosure of all fish production records for the past three (3) years of operation including complete inventory of fish, fish eggs, or fish gametes at time of transfer.

(c) A fish hatchery owner or operator shall allow inspection of aquaculture facilities, fish, fish eggs, or fish gametes by Department personnel during reasonable hours and with reasonable notice.

Section 65. Records. On forms provided by the Department, a licensee shall maintain on the premises of the fish hatchery, or at his residence, legible, current, accurate and complete fish production records for a minimum of the past three (3) years to date.

(a) Records shall identify the species, numbers, age, and size of all fish, fish eggs, and fish gametes in possession and that have been received, shipped, purchased, reared, brokered, sold, or disposed of, or that have escaped; and include the names and addresses of all recipients, fish rearing locations,

purchasers, and suppliers of all fish, fish eggs, or fish gametes that are reared by or brokered through the hatchery, the identifying number of any permits required for a transaction, and the date of all transactions. Upon request, all records shall be produced for inspection by the Department.

(b) Inventory records, or legible copies, shall be submitted semi-annually to the Chief of Fisheries on forms provided by the Department by January 15 and July 15 for activities that occurred during the six (6) month period prior to the month records are due.

(c) All pertinent fish health inspection reports shall be provided for inspection to the Department upon request as defined in Appendix I, Section 2 of ~~Wyoming Game and Fish~~ Commission Regulation Chapter 10, Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife. For the purpose of this regulation, fish health inspection reports shall be deemed current for a period of one (1) year from the last date of the fish health results.

Section 76. Escaped or Disposed of Fish. If fifty (50) pounds or more of fish escape or are disposed of into the drainage receiving effluent from a fish hatchery, the Chief of Fisheries shall be notified within twenty-four (24) hours.

Section 87. Stocking of Fish or Fish Eggs. The licensee, his agent, or the operator of a fish hatchery shall only provide fish, fish eggs or gametes for the purpose of stocking into waters of the State of Wyoming after first obtaining a copy of a fish stocking authorization issued to the approved applicant by the Department.

(a) The licensee, operator or broker of a fish hatchery shall not make any deviations from a fish stocking authorization.

Section 98. Transportation of Fish, Fish Eggs, or Fish Gametes. Vehicles used for the transport of fish, fish eggs or fish gametes to or from a fish hatchery shall be placarded with signage indicating that the equipment is being used to transport fish, fish eggs or fish gametes. Letters, numbers, or symbols displayed on the placard shall be at least three (3) inches in height, excluding shading and bordering, and shall be of a color that contrasts with the placard background color. Vehicle operators transporting fish, fish eggs or fish gametes shall be in possession of all documents required by Wyoming Statute and ~~Wyoming Game and Fish~~ Commission Regulations.

Section 109. Notification and Disposition of Diseased Fish, Fish Eggs and Fish Gametes. The licensee or his authorized agent shall notify the Wyoming Game and Fish Department Fish Health Laboratory within forty-eight (48) hours if there is any fish health problem at their aquaculture facility resulting in unusual fish behavior, or any abnormal change in fish condition or appearance, or increased mortalities. All fish, fish eggs, and fish gametes identified as suspect by a Department aquatic animal health inspector must be confined to their rearing units until the health problem has been evaluated. If a Department aquatic animal health inspector confirms a pathogen of concern, as listed in ~~Wyoming Game and Fish~~ Commission Regulation, Chapter 10, Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife, Appendix I "Cold Blooded Wildlife Inspection Procedures", it shall be a violation of this regulation to move or remove fish, fish eggs and fish gametes exposed to or which have contracted a pathogen of concern without prior authorization from the Department. Fish killed by a pathogen of concern shall be disposed of as prescribed by the Department.

Section 110. Prohibition of Fish Transport. Any violation of the conditions of a fish hatchery license shall result in the prohibition of transporting fish, fish eggs, or fish gametes into or out of the fish hatchery. Prohibition of fish transport will be lifted when corrective actions are completed to the satisfaction of the Department and written approval by the Chief of Fisheries to resume full operation is received.

Section 1211. Catchout Ponds. Fish hatcheries may operate one (1) catchout pond per licensed location for the sole purpose of fishing and shall not be operated for fish, fish egg, or fish gamete production.

(a) Method of Take. Fish can only be taken or fished for in a catchout pond by legal fishing methods. Each hatchery owner may set creel limits. All other Commission fishing regulations apply. A fishing license is not required.

(b) Receipt for Removal of Fish. The licensee shall issue a receipt to any person removing fish from licensed premises on forms provided by the Department.

(c) Transportation of Live Fish Prohibited. No person shall transport live fish, live fish eggs, or fish gametes from a catchout pond except as authorized by the Department.

Section 1312. Salmonid Fish Hatcheries.

(a) Fish health inspections. Annual fish health inspections of all fish located on the aquaculture facility will be conducted in accordance with ~~Wyoming Game and Fish~~ Commission Regulation, Chapter 10, **Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife**, Appendix I “Cold Blooded Wildlife Inspection Procedures”. Any new fish hatchery shall meet all requirements for specific pathogen free inspection before any fish, fish eggs or fish gametes can be transported outside of the hatchery.

(b) Fish, fish egg, or fish gamete importation. All importations of salmonid fish, fish eggs or fish gametes require a current health inspection and Department importation permit in accordance with ~~Wyoming Game and Fish~~ Commission Regulation, Chapter 10, **Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife**, Appendix I “Cold Blooded Wildlife Inspection Procedures”.

(c) Inventory. The owner or operator of a salmonid fish hatchery shall provide an accurate inventory of the number, age, and size of each species of fish or fish eggs present at the facility on a form provided by the Department. Inventory numbers can be established by physical count or accurate accounting records.

Section 1413. Non-Salmonid Fish Hatcheries.

(a) Broodstock Development. All brood fish received by a fish hatchery shall originate from a Department authorized aquaculture facility and shall be inspected by Department personnel before release into hatchery waters. A minimum of three (3) working days prior to brood stock arrival, the owner or operator shall notify the Chief of Fisheries to schedule an inspection of the brood fish.

(i) The number of brood fish authorized to be received by a fish hatchery shall be determined by the Department on a case-by-case basis.

(ii) Fathead minnows (*Pimphales promelas*) shall only be received as adult fish and cannot be sold for bait or stocked for a period of six (6) months beginning on the day of receipt.

Section 1514. Revocation of License. Failure to comply with any portion of this regulation may result in a Department request to the Commission for revocation of license. Revocation of a license by the Commission shall be carried out in accordance with **Commission Regulation Chapter 27, Rules of the Regulation** “Practice Governing Contested Cases before the Wyoming Game and Fish Commission”.

Section 1615. Disposition of Fish, Fish Eggs or Fish Gametes Upon Revocation of or Denial of or Failure to Renew License. If a fish hatchery license is revoked or renewal application denied or a

licensee fails to renew his license after a fish hatchery has begun operations, no fish or fish eggs or fish gametes may be imported into or removed from the facility. All fish, fish eggs, or fish gametes at the facility must be inventoried and disposed of in a manner approved by the Department within sixty (60) days of the date of license revocation or renewal denial or failure to renew. After this sixty (60) day period, all fish, fish eggs or fish gametes on the premises shall become the property of the State and may be disposed of by the Department.

Section 17. Violation of Commission Regulations. ~~Failure to abide by the provisions of this regulation shall be punishable as provided by Wyoming Statutes for violation of Commission regulations.~~

Section 18. Savings Clause. ~~If any provision of this regulation is held to be illegal or unconstitutional, such a ruling shall not affect other provisions of this regulation which can be given effect without the illegal or unconstitutional provision; and to this end, the provisions of this regulation are severable.~~

WYOMING GAME AND FISH COMMISSION

By: _____
~~Fred Lindzey~~**Mike Healy**, President

Dated: ~~November 17, 2011~~**January 22, 2014**